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Guest Editor's Introduction

The First Hong Kong Special Administrative Region Legislative Council Elections

The Legislative Council (Legco) Elections in Hong Kong on May 24, 1998, is the first open multiparty electoral competition in the People's Republic of China (PRC). Since Chinese leaders have repeatedly rejected Western-style democracy or multiparty competition for China, the extent to which the Hong Kong experience would serve as a model for political developments on the mainland is clearly limited. Nonetheless, political changes in Hong Kong has to be seen as part of China's experience following their reunion. Under the "one country, two systems" formula, Hong Kong is given the freedom to conduct its own internal affairs as a Special Administrative Region (SAR), but the formation of an elected legislature that is formally part of the PRC is still a significant event in the political history of the country.

Popular elections are a central feature of modern democracy. Elections in the SAR, however, are not about the formation of new governments. The people of Hong Kong elected representatives to the Legislative Council, but they did not elect a new administration. The chief executive Tung Chee Hwa was selected by a special Selection Committee representing sectoral interests dominated by those trusted by the central government. Like British governors before him, the chief executive appoints his own principal advisers in the Executive Council and nominates principal officials for formal appointment by the central government.¹ Despite the limited powers of the Legislative Council, the SAR government clearly saw the May elections as an important event. Almost immediately after assuming office the new administration reassured the international community that the elections would take place. The administration swung into action in early 1998 in preparation for the elections (Table 1).

In its campaign to urge the public vote, the government suggested that the people should vote for five reasons: (1) to elect a credible and representative legislature; (2) to elect Legislative Council members to monitor government

Table 1

The 1998 Legislative Council Elections: Timetable of Events

February 13	Publication of Provisional Register and Omission List (entries deleted from the electoral roll)
March 13	Publication of the Final Register
March 13–20	Nomination of candidates for Election Committee membership election
April 2	Polling for Election Committee membership election
April 9	Publication of Election Committee membership election results and Election Committee Final Register
April 9–24	Nomination of candidates for Legislative Council elections
May 24	Polling day for Legislative Council elections

Source: Hong Kong SAR Government, 1998.

performance; (3) to enable Hong Kong people to run Hong Kong and practice a high degree of autonomy; (4) to exercise your civil rights; and (5) to fulfill your civic duty. In fact, at stake is not only the civil responsibility of the people in Hong Kong but also the legitimacy of the SAR government and the realization of the “one country two systems” concept.²

As the Legco elections in 1998 were the first opportunity for the people of Hong Kong to express their political preference, the outcome was expected to provide clues to political sentiments in the SAR and the prospects for further democratization in Hong Kong. Despite poor weather and heavy rain and flooding in the New Territories, a record number of voters turned up to cast their votes, with the highest voter turnout rate at 53.29 percent. Some voters even treaded sandbags and wooden planks in flooded polling stations to cast their votes.³ The enthusiasm of the voters in Hong Kong caught many observers by surprise. Many had anticipated a lower turnout rate because they felt that the power of Legco was limited and the electoral arrangements were too complex.

Although legislative elections were introduced to Hong Kong toward the end of colonial rule, they have been castigated as insignificant or “votes without power.”⁴ The people of Hong Kong were not really exercising their rights to choose who would govern them but were merely selecting representatives to monitor the administration. In many ways, the first Hong Kong SAR Legco elections faced even more constraints. The electoral arrangements were created through a process dominated by Chinese officials and Beijing loyalists in Hong Kong who were appointed to provide a set of alternative arrangements to replace those put in place by the last governor Chris Patten in 1995. Although the Patten constitutional reform package was hardly democratic—the power of the repre-

sentatives elected to the legislature remained limited, and the electoral system was complex and unfair.⁵ Voters have to choose their representatives from three different categories of constituencies—geographical, functional, and the Election Committee. Nevertheless, it represented a small step forward in the democratization of Hong Kong by substantially expanding the number of the electorate in nine newly created functional constituencies and by making the membership of the Election Committee more representative by direct elections (Table 1).

The first SAR Legco elections inherited many features of the electoral arrangements, but they are even more complex and unfair. Voters not only have to choose representatives from different categories of constituencies, but new election methods were introduced. The process involves voting more than once on two different dates. On April 2, 1998, almost two months before the May elections, some people in Hong Kong cast votes for members of a Election Committee that is responsible to choose ten Legislative Council members. Moreover, some voters would have only one vote; others would have two, three, even five votes, depending on whether they were entitled to vote in more than one type of constituency and whether they were serving as a representative of other electors.

Electoral Arrangements

The people of Hong Kong elected the sixty-member Legislative Council by casting votes for candidates from three different categories of constituencies on May 24. The council members were returned from functional constituencies (thirty seats), an Election Committee (ten seats), and geographical constituencies (twenty seats). According to the schedule of the Basic Law, the number of members directly elected from geographical constituencies are to increase gradually to thirty by the year 2003, when the Election Committee constituency would be abolished. Operating within the parameters set by the Preparatory Committee that was set up by the Beijing government to make political arrangements for the SAR, the new SAR government replaced nine large functional constituencies based on individual votes created by the former governor Chris Patten with more narrowly defined constituencies mostly based on corporate votes.

Geographical Constituencies

Under the 1998 arrangements, seats from geographical constituencies similar to the 1995 elections were returned from universal suffrage, and every Hong Kong citizen aged eighteen and over was entitled to vote.⁶ But the proportional representation system replaced the single-vote, single-seat system. Under the new system, Hong Kong is divided into five geographical constituencies: Hong Kong Island (four seats), Kowloon East (three seats), Kowloon West (three seats), New Territories East (five seats), and New Territories West (five seats). Voters choose candidates by picking a list with the names of candidates appearing in rank order.

Table 2
The Allocation of Seats Under the List Proportional Electoral System in a Hypothetical Constituency

Nomination	Valid votes	Initial allocation of seats	Remaining vote	Allocation of remaining seats	Final results
A	33,000	1	13,000	1	2
B	23,000	1	3,000	0	1
C	21,000	1	1,000	1	1
D	17,000	0	17,000	1	1
E	6,000	0	6,000	0	0
Total	100,000	3		2	5

Source: Adopted from the Legislative Council Ordinance, 1998.

The number of candidates in each list cannot exceed the maximum number of seats in the constituency. Under the counting method, each list receives one seat based on a fixed ratio of votes called the Hare quota which is determined by the total number of valid votes cast divided by the total number of seats in the constituency. The remainder of the seats are then awarded to the lists with the largest number of remaining votes under the "largest remainder formula."

The government illustrates how the voting system operates by using a hypothetical case of a constituency with 100,000 valid votes. The Hare quota is: $100,000 / 5 = 2,000$ (Table 2).

The final register of voters, published by the government on March 13, indicated that the distribution of voters in the geographical constituencies is as shown in Table 3.

According to the proportional representation list system, if all voters (569,244) cast valid votes in the constituency, the Hare quota for the Hong Kong Island constituency will be $569,244 / 5 = 113,849$. A list with the largest number of votes would secure the first seat in the constituency with more than 113,849 votes.

Functional Constituencies

The functional constituency is equally complex if easier to understand.⁷ A majority of the functional constituencies represent professional, commercial, and other narrow sectoral interests. There are twenty-eight functional constituencies. These include the Urban Council, the Regional Council, Heung Yee Kuk, agriculture and fisheries, insurance, transport, education, legal, accountancy, medical, health services, engineering, architectural, labor, social welfare, real estate and con-

Table 3
Distribution of Registered Voters

Territory	Registered voters
Hong Kong Island	569,244
Kowloon West	411,466
Kowloon East	483,876
New Territories West	708,444
New Territories East	595,341
Total	2,768,371

Source: Hong Kong SAR Government, March 1998.

struction, tourism, commercial (first), commercial (second), industrial (first), industrial (second), finance, financial services, sports, performing arts, culture and publication, import and export, textiles and garment, wholesale and retail, and information technology.⁸

For functional constituencies represented by organizations, the electorates are usually corporate members of such organizations. Others, such as professional groups including lawyers, medical doctors, and teachers, however, return their representatives by individual votes. While the voting system in the functional constituencies adopted is more straightforward, it also varies according to the size and nature of the constituency. For a constituency with a small number of voters, including the Urban Council, the Regional Council, Heung Yee Kuk, insurance and transport, it is a preferential elimination system, that is, the candidate has to obtain an absolute majority of votes before being elected. Candidates in the labor constituency with three seats are elected by a "first past the post" system. But voters can cast up to three votes. For the rest of the functional constituencies, voters elect their representatives by a first past the post system with one vote.

Election Committee

The Election Committee is another story.⁹ The ten seats from the Election Committee are to be returned by electors from four sectors consisting of groups representing business, professional, and social interests based on functional constituencies, plus seven subsectors created especially for the Election Committee elections and members of the Provisional Legislative Council, Hueng Yee Kuk, district boards, Hong Kong deputies to the National People's Congress, and the National Committee of the Chinese People's Political Consultative Conference.¹⁰ Voters in the Election Committee subsectors first vote for the electors who serve on the Election Committee. The selection of the eight-hundred member Election Committee, which elects ten Legislative Council seats is a complicated process.

Table 4
Electoral Arrangements for the 1995 and 1998 Legislative Council Elections

Types of constituencies	Functional (30 seats)	Election committee (10 seats)	Geographical (20 seats)
Election systems	Preferential elimination and first past the post	First past the post with a block vote	List system of proportional representation
Election methods	Seats to be returned from 28 functional constituencies through a combination of corporate and individual voting with 1 seat each except for the labor constituency which has 3 seats	Seats to be returned by an 800-strong Election Committee comprising 4 sectors: (i) industrial, commercial, and financial; (ii) the professions; (iii) labor, social services, and religion; and (iv) political figures	Seats to be returned through universal suffrage from 5 constituencies (New Territory East; New Territory West; Kowloon East; Kowloon West; and Hong Kong Island) with 3-5 seats each

Source: Compiled by the author based on the Legislative Council Ordinance.

They have to be elected from four sectors, representing industrial, commercial, and financial interests; professionals; grass-roots, labor, and religious groups; and the pro-Beijing political establishment.

Seventy-seven members are from the Provisional Legislative Council and Hong Kong deputies to the National People's Congress, who are entitled to ex-officio seats. The remaining 723 seats are to be returned on April 2, 1998, by electorates of most of the functional constituencies plus seven new groups, including the Hong Kong Chinese Enterprises Association, hotel, Chinese medicine, higher education, catering, Employers' Federation of Hong Kong, and religion created for Election Committee elections.

Individual members of the Election Committee were elected by different mechanisms and from electoral bases of varying sizes. Some were to be elected by corporate votes, some by individual members; the sizes of the subsector votes varied from 81 in the hotel subsector to 53,575 in the education subsector. At the end of March 1998, a total of 1,099 candidates entered the competition to become the Election Committee electors. Five sub-sectors, with 95 seats, are uncontested, including the religious subsector that nominated 40 candidates for their 40 reserved seats. The other uncontested subsectors included commercial (second), Hong Kong Chinese Enterprises Association, industrial (second), and the Chinese People's Political Consultative Conference. Of the remaining 628 seats that are contested in 34 sub-sectors, 26 have fewer than two candidates for one seat (Table 4).

Institutions and Mechanisms

An Electoral Affairs Commission (EAC) was set up to recommend the boundaries for the geographical constituencies and to formulate regulations, guidelines, and other arrangements for the conduct and supervision of the elections.¹¹ The commission is responsible for “considering or reviewing the boundaries of geographical constituencies for the purpose of making recommendations; conducting and supervising of elections and regulating the electoral procedure; conducting and supervising the process for the formation of the Election Committee; supervising the registration of electors and the promotional activities relating to registration; reporting to the chief executive on any matter relating to elections and any process for the formation of the Election Committee; and taking appropriate steps for the purpose of ensuring that elections are conducted openly, honestly, and fairly.”

The EAC, chaired by Justice Woo Kwok Hing, who, along with the other two members, Norman Leung and Elizebath Shing, were appointed by the chief executive on 29 September 1997 for a term of three years. Justice Woo served in a similar capacity in the colonial administration under Patten. Norman Leung is a solicitor and deputy chairman of the Citybus Group. Elizabeth Shing is director general of the Hong Kong Management Association. The EAC's executive arm is the Registration and Electoral Office that provides the commission with administrative support and implements its decisions.

The commission published its recommendation, entitled *Proposed Geographical Constituency Boundaries Regarding the Legislative Council Election, 1998*, for public consultation between 11 and 24 October 1997, and *Proposed Guidelines on Election-Related Activities Regarding the 1998 Legislative Council General Elections* for public consultation between 18 and 31 December 1997. There were reports that when some executive council members were displeased with the boundaries of the geographical constituencies, the administration resisted the temptation to interfere with the commission's decision.¹² The EAC, however, dropped its plan to divide Yuen Long in the New Territories into two constituencies which was opposed strongly by Hueng Yee Kuk and others who felt the division was artificial.¹³

Although the EAC is seen to be fair and to have discharged its duties with integrity, there were also complaints. The most controversial case occurred when Chiang Lai-wan, a candidate who was defeated narrowly in the Regional Council, made a written complaint to the EAC that some ballot papers marked with a tick rather than a cross as required had not been declared invalid by the returning officer. Chiang later presented an election petition to the Court of First Instance to challenge the result of the Regional Council FC election.¹⁴ A by-election was later ordered by the court which ruled that the poll results were invalid.¹⁵ In the EAC's report to the chief executive, it recommended measures for improvement.¹⁶

Conclusions

Although the first Hong Kong SAR Legco elections have been conducted fairly and efficiently, the elections clearly represent a reversal in the democratization of Hong Kong. First, the popular franchise was reduced. Second, the electoral arrangements preserved and protected pro-Beijing and pro-administrative political interests in the SAR. Third, the electoral system with constituencies of varying sizes and different voting methods is also unfair. As demonstrated by a study conducted by the Human Rights Monitor, the voting system favored big corporations that could have multiple votes in functional constituencies through companies they controlled. According to the Human Rights Monitor's report, chairman of the Sino Land group, who controlled an estimated 41 votes in the real estate constituency or up to 5 percent of the electorate in that constituency, "this would be equivalent to wielding 15,490 votes in the Hong Kong Island geographical constituency."¹⁷

Nonetheless the introduction of competitive electoral politics have fundamentally altered the political landscape in Hong Kong, which is irreversible. Hong Kong's economic difficulties following the Asian turmoil may have captured the attention of the public, but it should not mask the importance of the changes in Hong Kong politics brought about by the elections and the long-term consequences for the SAR.

A detailed analysis of the election results and its significance is provided by Lo Shiu Hing. In his analysis, Lo examines the political outcome of the elections with reference to each of the three categories of constituencies, namely, geographical constituencies, functional constituencies, and the Election Committee. He also addresses the controversy surrounding the high voter turnout and voter behavior in the elections. Finally, he offers observations about the significance of the elections for Hong Kong's political developments.

Selected for this issue of *Chinese Law and Government* include key legal and official documents and other primary materials on the first Legco elections of the Hong Kong SAR. The materials are divided into two groups: legal and official documents, and political platforms of major political parties. The most important are the Legislative Council Ordinance (Chapter 542 in Hong Kong laws) and the Electoral Affairs Commission Ordinance (Chapter 541 in Hong Kong laws). These ordinances stipulate the electoral arrangements adopted by the Hong Kong SAR government, the rules and regulations governing the elections, and the mechanisms for administering the elections. The full text of both ordinance is made available here, except Schedules 1 and 2 of the Legislative Council Ordinance which consists of lists of the functional constituencies and their membership as well as electors of the Election Committee which are too lengthy for inclusion. Other documents include relevant parts of Corrupt and Illegal Practices Ordinance (Chapter 288 in Hong Kong Laws), referred to in the Legislative Council Ordinance, and the Electoral Affairs Commission's summary of its re-

view of the elections and measures for improvement. The political platform of the political parties/group which took part in the elections included are the Association for Democracy and People's Livelihood, the Citizen Party, the Democratic Alliance for the Betterment of Hong Kong, the Democratic Party, the Frontier, the Hong Kong Progressive Alliance, the Liberal Party, and the One-Two-Three Alliance.

Notes

1. For a general discussion of the formation of the first SAR government and a preliminary review of initial changes in the political system, see James T.H. Tang, "The Special Administrative Region Government and the Changing Political Order in Hong Kong," in *The Government and Politics of Hong Kong*, 5th ed., ed. Norman Miners (Hong Kong: Oxford University Press, 1998).

2. Publicity material for the first Legco elections by the Hong Kong SAR government, 1998 undated.

3. See Electoral Affairs Commission, *Report on the 1998 Legislative Council Elections*, chap. 8, sections 7, 8.24, and reports in *South China Morning Post*, 25 May 1998.

4. Rowena Y. F. Kwok, Joan Y. H. Leung, and Ian Scott, eds., *Votes Without Power: The Hong Kong Legislative Council Elections, 1991* (Hong Kong: Hong Kong University Press, 1992).

5. The reform package was put forward by Governor Chris Patten in his 1992 policy speech, *Our Next Five Years: The Agenda for Hong Kong* (Hong Kong: Hong Kong Government, 1992).

6. Full details on the geographical constituency are in the Legislative Council Ordinance, sections 18, 19, 24, and 38; the voting system is described in section 49.

7. Full details of the functional constituency are in the Legislative Council Ordinance, sections: 20, 21, 25, and 26; the voting system is described in sections 50 and 51.

8. Schedule 1 to the Legislative Council Ordinance.

9. Full details of the Election Committee are in the Legislative Council Ordinance, sections 22 and 23; the voting system is described in section 52.

10. Full details of the identity of the thirty-eight subsectors and their constituents are in Schedule 2 to the Legislative Council Ordinance.

11. Details of the establishment of the commission and its responsibilities can be found in the Electoral Affairs Commission, *Report on the 1998 Legislative Council Elections*, chap. 3.

12. See reports on the issue in *South China Morning Post*, 24, 28 October and 20 November 1997.

13. *South China Morning Post*, 20, 21 October and 12 November 1997.

14. Electoral Affairs Commission, *Report on the 1988 Legislative Council Elections*, chap. 8, sections 11, 8.32; 8.33. See also *South China Morning Post*, 8 June 1998.

15. *South China Morning Post*, 5 September 1998.

16. *Report on the 1998 Legislative Council Elections*, chap. 10.

17. *South China Morning Post*, 14 December 1998.